

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

PABLO P. PIÑA,

Plaintiff,

v.

YSUSI, *et al.*,

Defendants.

Case No. 1:20-cv-01735-BAM (PC)

ORDER GRANTING DEFENDANT'S EX PARTE APPLICATION TO EXTEND TIME TO FILE TO RESPOND TO ORDER DIRECTING DEFENDANT TO LODGE EXHIBIT IN COMPLIANCE WITH LOCAL RULE 138(l)

(ECF No. 70)

**Deadline: April 14, 2025**

Plaintiff Pablo P. Piña (“Plaintiff”) is a state prisoner proceeding *pro se* in this civil rights action pursuant to 42 U.S.C. § 1983. This action proceeds on Plaintiff’s first amended complaint against Defendant Ysusí (“Defendant”) for excessive force in violation of the Eighth Amendment. All parties have consented to United States Magistrate Judge jurisdiction. (ECF Nos. 36, 39.)

On November 29, 2022, Defendant filed a motion for summary judgment. (ECF No. 58.) Upon review of Defendant’s motion for summary judgment and the docket in this action, the Court found that an exhibit intended to be submitted in support of the motion for summary judgment was inadvertently omitted from Defendant’s filing and was not lodged with the Clerk of the Court. On March 2, 2025, the Court directed Defendant to submit the exhibit and file a notice of lodging in compliance with Local Rule 138(l) within five days. (ECF No. 69.)

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1       Currently before the Court is Defendant's ex parte application for a seven-day extension  
2 of time to respond to the Court's order, filed April 4, 2025. (ECF No. 70.) Defendant states that  
3 the primary attorney assigned to this matter, who prepared the motion for summary judgment, is  
4 currently on leave out of the country and cannot assist in locating the correct video file to lodge  
5 with the Court. Good cause therefore exists for the requested extension because Defendant wants  
6 to ensure that the correct video is provided to the Court, and to provide sufficient time to transfer  
7 that video to an appropriate media for delivery. (*Id.*0

8           Although Plaintiff has not had an opportunity to file a response, the Court finds a response  
9 unnecessary, and Defendant's motion is deemed submitted. Local Rule 230(l).

Having considered the request, the Court finds good cause for the requested extension of time. Fed. R. Civ. P. 16(b). It is anticipated that primary defense counsel will return to the office during the week of April 7 and can assist in responding to the Court's order at that time. The Court further finds that Plaintiff will not be prejudiced by the brief extension requested here.

14 || Accordingly, it is HEREBY ORDERED as follows:

15       1. Defendant's ex parte application to extend time to respond to order directing Defendant to  
16       lodge exhibit in compliance with Local Rule 138(l), (ECF No. 70), is GRANTED;  
17       2. On or before **April 14, 2025**, Defendant SHALL SUBMIT "Exhibit A to Declaration of P.  
18       Williams" and file a notice of lodging in compliance with Local Rule 138(l); and  
19       3. **Failure to submit the above-referenced exhibit in compliance with this order will**  
20       **result in consideration of the motion for summary judgment, as currently filed.**

## IT IS SO ORDERED.

23 || Dated: April 4, 2025

/s/ *Barbara A. McAuliffe*  
UNITED STATES MAGISTRATE JUDGE